

STEPHEN P. BERZON (#46540)
sberzon@altshulerberzon.com

LINDA LYE (#215584)
llye@altshulerberzon.com

CLAIRE P. PRESTEL (#235649)
cprestel@altshulerberzon.com

Altshuler Berzon LLP
177 Post Street, Suite 300
San Francisco, CA 94108
Telephone: (415) 421-7151
Facsimile: (415) 362-8064

ELIZABETH GINSBURG
(Application for Admission *Pro Hac Vice* Pending)
elizabeth.ginsburg@alpa.org

Air Line Pilots Association, International
535 Herndon Parkway
Herndon, VA 20172-1169
Telephone: (703) 481-2424
Facsimile: (703) 481-2478

Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SKYWEST PILOTS ALPA ORGANIZING
COMMITTEE, *et al.*,

Plaintiffs,

v.

SKYWEST AIRLINES, INC.,

Defendant.

CASE NO.: C07-2688 CRB

**[PROPOSED] PRELIMINARY
INJUNCTION**

The above-captioned matter came before the Court upon Plaintiffs' Motion for a Preliminary Injunction. A hearing was held on June 7, 2007 at which both parties were represented by counsel and presented live evidence, and prior to which both parties submitted briefs.

Having considered the evidence and legal arguments, the Court finds that Plaintiffs have demonstrated a likelihood of success on the merits and that the balance of hardships tips sharply in Plaintiffs' favor. Accordingly, Plaintiffs are entitled to a Preliminary Injunction.

1 In support of this Preliminary Injunction, the Court makes the following findings:

- 2 • Unlawful acts have been threatened and will be committed unless restrained or have
- 3 been committed and will be continued unless restrained.
- 4 • Substantial and irreparable injury to Plaintiffs' property will occur in the absence of
- 5 immediate injunctive relief.
- 6 • As to each item of relief granted in paragraphs 1 through 4 below, greater injury will
- 7 be inflicted upon Plaintiffs by the denial of relief than will be inflicted upon
- 8 Defendant by the granting of relief.
- 9 • Plaintiffs have no adequate remedy at law.
- 10 • Plaintiffs suffer injury in the form of the deprivation of their rights under the Railway
- 11 Labor Act ("RLA" or "the Act"), 45 U.S.C. §152, Third and Fourth, to organize and
- 12 to select a bargaining representative of their own choosing and specifically to engage
- 13 in expressive and associational activity in connection with their organizing campaign,
- 14 free of employer interference or discrimination.
- 15 • Harm to Plaintiffs is irreparable because under controlling Ninth Circuit caselaw.
- 16 *Arcamuzi v. Continental Air Lines, Inc.*, 819 F.2d 935, 938 (9th Cir. 1987) ("coercive
- 17 and inhibitory effects upon . . . employees' organizational rights secured by the RLA
- 18 . . . [are] irreparable").

19 THEREFORE, IT IS HEREBY ORDERED that the Amended Temporary Restraining
 20 Order issued by this Court on May 24, 2007 is dissolved and superseded by this Preliminary
 21 Injunction.

22 IT IS FURTHER HEREBY ORDERED that Defendant SkyWest Airlines, Inc.
 23 ("SkyWest"), its officers, agents, servants, employees, and attorneys, and all persons acting by,
 24 through, under, or in concert with Defendant, pending a final ruling by this Court on the merits:

- 25 1) Are hereby enjoined from interfering in any way with SkyWest pilots' outward
- 26 expression of support for ALPA and the ALPA organizing campaign and association with
- 27 like-minded pilots through, *inter alia*, the wearing of ALPA insignia on lanyards or pins,
- 28 while in uniform or off duty.

- 1 2) Are hereby enjoined from interfering in any way with SkyWest pilots' oral
2 communication with fellow SkyWest pilots regarding ALPA and the ALPA organizing
3 campaign in non-work areas and non-work time and from interfering in any way with
4 SkyWest pilots' communication with fellow SkyWest pilots regarding ALPA and the
5 ALPA organizing campaign through distribution of ALPA-related materials in non-work
6 areas such as bulletin boards and crew lounges.
- 7 3) Are hereby enjoined from discriminating in any way against SkyWest pilots with respect
8 to the channels of communication they may use to communicate with fellow pilots, and,
9 to comply with this prohibition, are hereby ordered to permit the pilots employed by
10 SkyWest, who are members of Plaintiff SkyWest Pilots ALPA Organizing Committee
11 and whose names appear on the attached Appendix A, to use the same channels of
12 communication used by SkyWest Airlines Pilot Association ("SAPA") at any point
13 during the last year, including *inter alia*, to post materials on general bulletin boards in
14 crew lounges, to distribute materials through pilot mailboxes, to send group emails to
15 pilots through SkyWest's email system, and to make presentations to newly-hired pilot
16 classes, and also to use of dedicated bulletin board space in each crew lounge where
17 SAPA had dedicated bulletin board space at any point in the last year.
- 18 4) Are hereby enjoined from funding or providing any financial support to SAPA.

19 IT IS FURTHER HEREBY ORDERED that no bond is necessary for each of the
20 following separate and independent reasons: (1) Plaintiffs have a strong likelihood of success on
21 the merits; (2) there is no realistic likelihood of harm to Defendant from enjoining its conduct;
22 and (3) the balance of hardships weighs in favor of Plaintiffs.

23 IT IS SO ORDERED.

24 Date: _____

25 _____
26 U.S. District Court Judge

APPENDIX A TO AMENDED TEMPORARY RESTRAINING ORDER

1
2 Phil Alford SLC CRJ Captain
Arshad Ali ORD CRJ Captain
3 Omar Amin PSP EM2 Captain
David Benjamin PDX EM2 Captain
4 Andy Bharath DEN CRJ Captain
David Boehm SLC CRJ Captain
5 Frank Bowlin TRG CRJ Captain
Thomas Caldwell DEN CRJ Captain
6 Rick Clapp ORD CRJ Captain
John Colson DEN CRJ Captain
7 Travis Cook SLC CRJ First Officer
Clifford Cooley DEN EM2 Captain
8 Erik Copeland SLC CRJ Captain
Nathaniel Cothran FAT CRJ First Officer
9 Shaun Cunningham ORD CRJ Captain
Jason Custer FAT CRJ Captain
10 Larry de Freitas SLC CRJ Captain
Steve Dow COS CRJ Captain
11 Chris Eyring SLC CRJ Captain
Ramon Gleser DEN CRJ Captain
12 Laura Goudge TRG CRJ Captain
Frank Hammond SBP EM2 Captain
13 Karen "Diane" Helly SLC CRJ Captain
Kurt Horst DEN CRJ Captain
14 Gordon Hyde DEN CRJ First Officer
Jason Ianaro ORD CRJ Captain
15 Russ Jacobie FAT CRJ Captain
Jesse Jenks SBP EM2 Captain
16 Marc Johnson ORD CRJ Captain
Steve Kanuch DEN CRJ Captain
17 Scott Koehler TRG CRJ Captain
Jeremy Konis TUS CRJ First Officer
18 Russell LaBelle COS CRJ First Officer
Jeri Lyn Liddiard SLC CRJ Captain
19 Todd Lisak ORD CRJ Captain
Riad Mansur ORD CRJ Captain
20 Diletta Martirano SAN EM2 First Officer
Jeremy Michalek SLC CRJ Captain
21 Darris Miller DEN CRJ Captain
Adam Miller ORD CRJ Captain
22 Paul Millsap SLC CRJ Captain
Scott Mitchell SLC CRJ Captain
23 Douglas Moriarty SLC CRJ Captain
Jeffery Nostrom SLC CRJ Captain
24 Mike Owiecki SMF CRJ Captain
Antonio Scamardella ORD CRJ Captain
25 Jeff Sciaroni DEN CRJ Captain
Curtis Sessions SLC CRJ Captain
26 Tracy Shrier SLC CRJ Captain
Peter Veuger DEN CRJ Captain
27 Allen Walker FAT CRJ Captain
Clinton Weichers MRY EM2 Captain
28 Tom Wimber COS CRJ First Officer